



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5164/2

ARG:emw

2023 SENATE BILL 832

December 19, 2023 - Introduced by Senator CABRAL-GUEVARA, cosponsored by Representatives ALLEN, DRAKE, ORTIZ-VELEZ, MURSAU, PALMERI, RETTINGER, ROZAR and CONLEY. Referred to Committee on Financial Institutions and Sporting Heritage.

AN ACT *to repeal* 138.14 (1) (g); *to renumber* 138.14 (9m); *to amend* 138.14 (9g) (a) 3., 138.14 (10) (b) 2., 138.14 (12) (b), 138.14 (12) (f) and 138.14 (14) (m); *to repeal and recreate* 138.14 (1) (k); and *to create* 138.14 (9g) (a) 7., 138.14 (9m) (a), 138.14 (9r) (g), 138.14 (12) (g) and 138.14 (13) (e) of the statutes; **relating to:** payday loans.

Analysis by the Legislative Reference Bureau

This bill redefines a payday loan and makes other changes related to the regulation of payday loans.

Under current law, a person other than a financial institution or its affiliate must be licensed by the Division of Banking (division) in the Department of Financial Institutions to originate or service a payday loan involving a Wisconsin resident. A "payday loan" is defined as a transaction between an individual with an account at a financial establishment and another person (payday lender) in which the payday lender agrees to accept a check or electronic fund transfer (EFT) authorization from the individual, to delay negotiating the check or initiating the EFT for a period of time, and to extend a loan to the individual for a term of 90 days or less. Current law imposes various requirements and restrictions on payday loans and licensed payday lenders. For example, a payday lender may not make a payday

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loan that results in the customer having an outstanding liability in principal, interest, and fees on all payday loans held at the same time by the customer of more than \$1,500 or 35 percent of the customer's gross monthly income, whichever is less. A payday lender must also provide to an applicant certain information before entering into a payday loan, including disclosing fees and costs and the loan's annual percentage rate and providing written materials prepared by the division.

This bill eliminates the foregoing definition of a payday loan and instead defines a payday loan as a loan to which all of the following apply: 1) the loan's maturity date is not more than six months after the loan's origination date; 2) the loan agreement requires the loan to be repaid in equal periodic payments over the course of the loan; and 3) the loan is not secured by real property or other collateral. The bill prohibits a payday lender from making or offering to make a payday loan having a maturity date less than 90 days after the loan's origination date.

The bill also imposes the following requirements on payday loans in addition to current law requirements:

1. Under the loan agreement, a portion of each periodic payment by the customer must be applied to loan principal and the percentage of the payment applied to principal must be the same for all periodic payments made by the customer on the payday loan.

2. Before entering into a payday loan, a payday lender must undertake a reasonable underwriting process to verify the applicant's ability to repay the payday loan. The payday lender may not make a payday loan in an amount that exceeds the amount the applicant is capable of repaying, as determined by the payday lender's underwriting process, or the maximum amount established under current law (as described above), whichever is less.

3. Before entering into a payday loan, a payday lender must disclose to the applicant, in a clear and conspicuous manner, the payment plan and the amount of interest that will be paid over the course of the loan. The payday lender must also disclose to the applicant the availability of a financial literacy course of no more than three hours' duration that the bill requires the division to develop or make available to the public.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 138.14 (1) (g) of the statutes is repealed.

SECTION 2. 138.14 (1) (k) of the statutes is repealed and recreated to read:

138.14 (1) (k) "Payday loan" means a loan to which all of the following apply:

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1. The loan's maturity date is not more than 6 months after the loan's origination date.

2. The loan agreement requires the loan to be repaid in equal periodic payments over the course of the loan.

3. The loan is not secured by real property or other collateral.

SECTION 3. 138.14 (9g) (a) 3. of the statutes is amended to read:

138.14 **(9g)** (a) 3. Provide to the applicant a copy of the written informational materials specified in sub. (9r) (a) to (f) and disclose to the applicant the availability of the financial literacy course under sub. (9r) (g).

SECTION 4. 138.14 (9g) (a) 7. of the statutes is created to read:

138.14 **(9g)** (a) 7. Disclose to the applicant, in a clear and conspicuous manner, the payment plan and the amount of interest that will be paid over the course of the loan.

SECTION 5. 138.14 (9m) of the statutes is renumbered 138.14 (9m) (b).

SECTION 6. 138.14 (9m) (a) of the statutes is created to read:

138.14 **(9m)** (a) Before entering into a payday loan with an applicant, the licensee shall undertake a reasonable underwriting process to verify the applicant's ability to repay the payday loan. The licensee may not make a payday loan in an amount that exceeds the amount the applicant is capable of repaying, including principal and interest, as determined by the licensee's underwriting process, or the amount established as provided in sub. (12) (b), whichever is less.

SECTION 7. 138.14 (9r) (g) of the statutes is created to read:

138.14 **(9r)** (g) The division shall develop or make available to the public a

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financial literacy course that includes material related to payday loans. The course's duration shall be no more than 3 hours.

SECTION 8. 138.14 (10) (b) 2. of the statutes is amended to read:

138.14 (10) (b) 2. A licensee may present a customer's check for a periodic payment no more than once. For each customer authorization to initiate an electronic fund transfer from the customer's account, a licensee may initiate an electronic fund transfer for a periodic payment no more than once. The only charge that a licensee may impose for dishonor of a customer's check or denial of the licensee's instruction to execute an electronic fund transfer is a service charge that does not exceed \$15.

SECTION 9. 138.14 (12) (b) of the statutes is amended to read:

138.14 (12) (b) No licensee may make a payday loan to a customer that results in the customer having an outstanding aggregate liability in principal, interest, and all other fees and charges, to all licensees who have made payday loans to the customer of more than \$1,500 or 35 percent of the customer's gross monthly income, whichever is less. As provided in sub. (9m) (b), a licensee may rely on a consumer report to verify a customer's income for purposes of this paragraph.

SECTION 10. 138.14 (12) (f) of the statutes is amended to read:

138.14 (12) (f) If a check ~~held~~ received by a licensee as ~~a result of payment on~~ a payday loan is dishonored, or an instruction to execute an electronic funds transfer authorized as ~~the result of payment on~~ payment on a payday loan is denied, the licensee may bring an action to collect the amount of the check or electronic funds transfer, but may not threaten or pursue criminal action against a debtor as a result of the

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debtor's dishonored check or denied electronic funds transfer or the debtor's payday loan not being paid.

SECTION 11. 138.14 (12) (g) of the statutes is created to read:

138.14 (12) (g) No licensee may make or offer to make a payday loan for which the maturity date is less than 90 days after the loan's origination date.

SECTION 12. 138.14 (13) (e) of the statutes is created to read:

138.14 (13) (e) The loan agreement for a payday loan shall provide that a portion of each periodic payment by the customer be applied to loan principal and that the percentage of the payment applied to principal be the same for all periodic payments made by the customer on the payday loan.

SECTION 13. 138.14 (14) (m) of the statutes is amended to read:

138.14 (14) (m) Before entering into a payday loan, a licensee shall submit to the database provider the customer's name; unique identification number that is assigned in a manner specified by the division; address; driver license number or other method of state identification; the amount of the transaction; ~~the customer's check number, if applicable;~~ the date of the transaction; the maturity date of the loan; and any other information reasonably required by the division, in a format approved by the division.

SECTION 14. Nonstatutory provisions.

(1) This act first applies to loans made, refinanced, or consolidated on the effective date of this subsection.

SECTION 15. Effective date.

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(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)